

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

RUSTEM KAZAZI, et al.,)	CASE NO. 1:18 MC 51
)	
Petitioners,)	JUDGE DAN AARON POLSTER
)	
vs.)	<u>MINUTES OF PROCEEDING</u>
)	and
U.S. CUSTOMS AND BORDER PROTECTION, et al.,)	<u>SCHEDULING ORDER</u>
)	
Respondents.)	
)	

On May 31, 2018, Plaintiffs Rustem, Erald, and Lejla Kazazi filed a 41(g) Motion for Return of Property (“Motion”), claiming that the Government seized \$58,100 from Rustem on October 24, 2017 as he was departing from Cleveland Hopkins International Airport bound for Albania, his former home. (Doc #: 1.) On June 7, 2018, the Court held a teleconference during which Respondents reported that they were beginning the process of tendering a check to Rustem in the amount of \$57,330 plus interest. Remaining, however, was a dispute over the difference between the amount Respondents insist they took from him and the amount Rustem insists was taken from him (i.e. \$770). Accordingly, the Court scheduled a evidentiary hearing over the disputed amount on Monday, December 10, 2018, and allowed the parties to conduct discovery between now and then.

The next day, due to the small amount in dispute, the Court held an impromptu teleconference during which the Court directed Petitioners and Respondents to produce to opposing counsel, with a copy to the Court, documentary evidence supporting their contentions

regarding the disputed amount. The Court directed Respondents to send the Kazazi's a check for the undisputed amount of \$57,330 plus interest, and directed the parties to begin negotiations toward the resolution of the disputed amount of \$770. In the event they were unable to resolve the dispute, the Court scheduled an in-person conference with counsel and clients on July 9, 2018.

Because the parties were unable to settle the dispute themselves, the Court held a settlement conference on July 9, 2018, attended by Petitioners, their interpreter Nita Hoxha, and their counsel, Patrick Lewis, Robert McNamara, Johanna Talcott and Wesley Hottot, and on behalf of Defendants, Hector Feliciano, and AUSA Lisa Johnson and Lynne Buck. The Court attempted to settle the dispute over the \$770. Although the Kazazi's reported that they had not yet received a check for \$57,330 plus interest, Respondents noted that they had mailed checks in that amount to the Kazazi family on July 3, 2018. At some point during the negotiations, counsel for Petitioners argued that their Rule 41(g) Motion contained a *Bivens* claim – allowing the recovery of attorney fees should their clients substantially prevail. The Court responded that this was a simple Rule 41(g) motion, and it would not acknowledge any alleged *Bivens* claim. Because the Court's efforts to settle the case failed, it reminded clients and counsel about the evidentiary hearing scheduled for December 10, 2018, and noted that it will only hear arguments related to the return of property under Rule 41(g). Finally, the Court urged the parties to continue with settlement negotiations regarding the disputed \$770.

IT IS SO ORDERED.



7/10/2018

Dan Aaron Polster
United States District Judge